



## **CITY OF NEWPORT BEACH HARBOR COMMISSION AGENDA**

**Council Chambers – 3300 Newport Blvd.  
Wednesday, March 13, 2013 – 6:00 PM**

### ***Harbor Commission Members:***

**Doug West, Chair  
Karen Rhyné  
Ralph Rodheim**

**Brad Avery  
Paul Blank**

**Duncan McIntosh  
David Girling**

### ***Staff Members:***

**Chris Miller, Harbor Resources Manager  
Shannon Levin, Harbor Resources Supervisor**

### ***Council Liaison:***

**Nancy Gardner**

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- 1) CALL MEETING TO ORDER**
- 2) ROLL CALL**
- 3) PLEDGE OF ALLEGIANCE**
- 4) SPECIAL CEREMONY RECOGNIZING LT. TOM SLAYTON, HARBORMASTER, AND DEPUTY CARLOS CONTRERAS, MOORING DEPUTY, ON THEIR RETIREMENTS FROM THE ORANGE COUNTY SHERIFF'S HARBOR PATROL. PUBLIC COMMENTS WELCOME.**
- 5) PUBLIC COMMENTS**

*Public comments are invited on agenda and non-agenda items generally considered to be within the subject matter jurisdiction of the Commission. Speakers must limit comments to three (3) minutes. Before speaking, we invite, but do not require, you to state your name for the record. The Commission has the discretion to extend or shorten the speakers' time limit on agenda or non-agenda items, provided the time limit adjustment is applied equally to all speakers. As a courtesy, please turn cell phones off or set them in the silent mode.*

- 6) APPROVAL OF MINUTES from January 9 and February 13, 2013 Regular Meetings**
- 7) CURRENT BUSINESS**

#### **1. *Commercial Pier at 508 S. Bay Front – Request for a New Permit***

The commercial pier at 508 S. Bay Front encroaches in front of the neighbor's property at 510 S. Bay Front. Per Newport Beach Municipal Code ("NBMC"), 17.35.020(F), a new permit approved by

This Commission is subject to the Ralph M. Brown Act. Among other things, the Brown Act requires that the Commission's agenda be posted at least seventy-two (72) hours in advance of each regular meeting and that the public be allowed to comment on agenda items before the Commission and items not on the agenda but are within the subject matter jurisdiction of the Commission. The Commission may limit public comments to a reasonable amount of time, generally three (3) minutes per person.

It is the intention of the City of Newport Beach to comply with the Americans with Disabilities Act ("ADA") in all respects. If, as an attendee or a participant at this meeting, you will need special assistance beyond what is normally provided, the City of Newport Beach will attempt to accommodate you in every reasonable manner. If requested, this agenda will be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. Please contact the City Clerk's Office at least forty-eight (48) hours prior to the meeting to inform us of your particular needs and to determine if accommodation is feasible at (949) 644-3005 or [cityclerk@newportbeachca.gov](mailto:cityclerk@newportbeachca.gov).

the Harbor Commission shall be required upon a change of ownership of the permittee's property. The property at 508 S. Bay Front is currently in escrow, and the Buyer is requesting a new permit.

**Recommendation:**

1. The Harbor Commission may approve a new permit for 508 S. Bay Front for the dock system in its current configuration, or;
  2. The Harbor Commission may deny the permit request for 508 S. Bay Front in its current configuration, and require the dock system to be confined within the water area defined by the property line extensions of 508 S. Bay Front only.
- 2. *Alternative Mooring Ideas for Newport Harbor***  
Marshall Duffield, owner of Duffy Electric Boat Company, will present conceptual ideas for alternate configurations for Newport Harbor's mooring fields.

**Recommendation:**

1. Receive and file.
- 3. *Harbor Commission Purpose and Responsibilities - Revisions***  
In November 2012, the City Council approved the Tidelands Capital Plan which outlines harbor projects to be completed within the next five years. The Harbor Commission's Purpose and Responsibilities should be updated to reflect the added component of the Tidelands Capital Plan.

**Recommendation:**

1. Advise the Harbor Resources Manager to recommend the proposed revisions of the Harbor Commission's Purpose and Responsibilities to the City Council.
- 4. *Lower Castaways – A Discussion on the Future of this City Owned Property***  
The Lower Castaways, located on the corner of W. Coast Highway and Dover Drive, is the last City owned waterfront property in Newport Harbor. The Harbor Commission is initiating the discovery process which will look at the future of this property, and the various uses which could benefit the entire community, both from a landside and waterside perspective. The Harbor Commission will review the comments made at today's Study Session, and will request input from the public during this discovery process.
- Recommendation:**
1. Receive and file.

**8) SUBCOMMITTEE REPORTS**

**9) QUESTIONS AND ANSWERS WITH COUNCIL LIAISON ON HARBOR RELATED ISSUES**

**10) QUESTIONS AND ANSWERS WITH HARBOR RESOURCES MANAGER ON HARBOR RELATED ISSUES**

**11) PUBLIC COMMENTS ON SUBCOMMITTEE REPORTS OR QUESTIONS AND ANSWERS WITH COUNCIL LIAISON OR HARBOR RESOURCES MANAGER**

**12) COMMISSION ANNOUNCEMENTS OR MATTERS WHICH MEMBERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION OR REPORT (NON-DISCUSSION ITEM)**

**13) DATE AND TIME FOR NEXT MEETING: Wednesday, April 10, 2013, 6:00 PM**

**14) ADJOURNMENT**

**NEWPORT BEACH HARBOR COMMISSION REGULAR MEETING MINUTES**  
**City Council Chambers**  
**Wednesday, January 9, 2013**  
**6:00 p.m.**

**1) CALL MEETING TO ORDER**

The meeting was called to order at 6:00 p.m.

**2) ROLL CALL**

Commissioners: Doug West, Chair  
Brad Avery  
Paul Blank (arrived late)  
David Girling  
Duncan McIntosh  
Ralph Rodheim

Absent (Excused): Karen Rhyne

Staff Members: Chris Miller, Harbor Resources Manager  
Shannon Levin, Harbor Resources Supervisor

Council Liaison: Mayor Nancy Gardner

**3) PLEDGE OF ALLEGIANCE – Commissioner Rodheim**

**4) PUBLIC COMMENTS**

Chair West invited those interested in addressing the Commission on agenda or non-agenda items to do so at this time.

Jim Mosher reported on recent Council actions regarding restricting public comments to three minutes instead of five minutes. He stated that Coastal Commission limitations were cited as an example and felt that neither Council nor the Harbor Commission has the large number of public comments usually heard by the Coastal Commission so that the comparison was irrelevant. He opined that there would be no problem in requiring a five-minute limit for public comments.

There being no others wishing to address the Commission, Chair West closed the Public Comments portion of the meeting.

**5) APPROVAL OF MINUTES from November 14, 2012**

**Motion:** Commissioner Blank made a motion to approve the minutes of the Harbor Commission regular meeting of November 14, 2012, as submitted. Commissioner Rodheim seconded the motion, which carried with 6 ayes and 1 absent (Rhyne). Approved.

**6) CURRENT BUSINESS**

**1. *Eelgrass in Newport Harbor***

Mike Josselyn Ph.D., WRA Environmental Consultants, will give a presentation on eelgrass in Newport Harbor. In addition, the City's proposed Newport specific plan for managing eelgrass will be discussed.

Chair West introduced the item and deferred to Dr. Michael Josselyn for a presentation.

Mr. Miller added that Dr. Josselyn has worked with the City; Harbor Resources and the City Attorney's office for several years and has been instrumental as the biologist who has been the backbone of the plan development. He addressed the importance of presenting the proposed draft document noting that the City is at the cusp of finishing its negotiations with several agencies and gearing up for a meeting at the end of January for a more-clear direction on the matter. He expressed his appreciation to Dr. Josselyn for his work.

Dr. Josselyn reported on his background and research and his experience working with WRA Professional Consultants. He presented information regarding eelgrass noting that it is very sensitive to light availability and initiates its growth during the spring. He reported that it is widely found throughout the State of California and addressed its light requirements and noted that there are deep and shallow water forms of eelgrass. Dr. Josselyn noted that eelgrass is protected by the National Marine Fishery Service as an essential fish habitat, stabilizes bottom sediments and is a unique and limited habitat type in California coastal areas.

He presented a map of areas where eelgrass exists in Southern California and specifically, in Newport Harbor. He addressed the current Southern California Eelgrass Mitigation Policy as well as the Proposed California Eelgrass Mitigation Policy. He noted that both are individual-project based but that the latter allows for regional approaches, if approved. He added that at a recent meeting with the National Marine Fishery Service, representatives indicated that the Newport Beach plan would be one of the first that could qualify as one of the exceptions from an individual project; and would be a bay-wide project that the City could put into place.

Dr. Josselyn addressed conflicts with small dock dredging, efforts by the City to protect eelgrass and noted that the Newport Beach plan is consistent with Ecosystem Based Management. In addition, he presented the goals of the Eelgrass Protection and Mitigation Plan, eelgrass management thresholds, actions within each threshold tiers, eelgrass establishment methods and other best management practices. Dr. Josselyn addressed initial measures at the start of the program and the status of the plan.

Discussion followed regarding the existence of eelgrass in most coastal states within the country, effects of water temperature on eelgrass and the historical existence of eelgrass. It was noted that it only grows in salt water.

Ensuing discussion followed regarding mandating City donations by Coast Keepers.

Harbor Resources Manager Chris Miller reported that Coast Keepers is working on eelgrass mitigation in Newport Harbor and donations don't necessarily have to go to Coast Keepers, but could go to other groups.

Discussion followed regarding stable and transition zones within the harbor and it was noted that the terms were developed for the harbor, although most harbors have such zones.

It was noted that the City's plan focuses on shallow water eelgrass. Dr. Josselyn reported that the harbor should be looked at, as a whole but that the National Marine Fishery Service wanted it applied up to the pier head/bulkhead line. He added that the plan would not affect the Upper Bay and would be applicable to the Lower Bay. Coast Keepers is working on the Upper Bay.

In response to an inquiry from the Commission, Dr. Josselyn explained methods used in measure the acreage in the harbor. He noted that diver surveys are usually the most accurate and reported that other techniques are becoming readily available.

Discussion followed the number of docks that could be dredged and Mr. Miller reported that yearly acreage allowed would be enough to cover a lot of residences. Ensuing discussion followed regarding options available for homeowners for mitigating eelgrass and possible liability to the City if the eelgrass cannot be maintained.

Mr. Miller reported on surveys conducted and upcoming and noted that as the City builds up additional surveys and establishes an average it can monitor its growth and make determinations regarding the amount of dredging to be done. He added that within the first two years of a project, the City will be able to impact an acre and a half per year (three acres in the first two years). He noted that this is a proposed draft project that has been conceptually approved by the Water Board and the Corps of Engineers. There is additional work to be done in order to obtain approval through the agencies. As more agencies express their support, it will be less challenging to obtain approval from remaining agencies. He noted an upcoming meeting with the National Marine Fishery Service.

Chair West commented positively on the plan and stated that as soon as it is approved, a strategy should be developed on how to communicate and continue public outreach and education.

Interested parties were invited to address the Commission on this item.

Len Bose wondered regarding purchasing the seeders and Dr. Josselyn reported that they can be found on the National Marine Fishery Service website.

Lisa Miller commented on the pros and cons of the seeders and noted the need to meet Building Code requirements relative to the location. She agreed with placing seeders on piers and ramps, but not on flotation.

There being no others wishing to address the Commission, Chair West closed public comments for this item.

Chair West expressed his appreciation to Dr. Josselyn and the item was received and filed.

## ***2. Regional General Permit (RGP-54) – A Recommended Approach for 2014***

The Harbor Commission's Dredging Subcommittee will discuss the City's Regional General Permit and recommend an approach for Council to consider for the new permit in 2014.

Chair West introduced the item, noting that time is of the essence in moving the item forward. He reported that the Commission thoroughly discussed the recommended approach to the revised and new RGP-54.

Mr. Miller presented details of the current RGP-54 provisions compared with the proposed 2014 RGP-54 provisions including annual maximum volume, individual project volume limits, maximum dredge depth, sediment testing, eelgrass, structures, application review, shading, water quality monitoring, applicable users, disposal, State Land Commission dredging lease and fee structure.

Chair West noted the importance of understanding that this is a conceptual framework for the intended approach to the agencies in the design of the next RGP-54 and is not assured at this point.

Interested parties were invited to address the Commission. There was no response and Chair West closed public comments for this item.

**Motion:** Commissioner McIntosh made a motion to advise the Harbor Resources Manager to proceed with a Council recommendation for "Option 1" for the upcoming Regional General Permit which includes additional features not included in the current permit and including previous changes regarding structures meeting the California Building Code standards. The sediment testing and permitting costs would also be funded by the City. Commissioner Avery seconded the motion, which carried with 6 ayes and 1 absent (Rhyne). Approved.

## ***3. Virgin Oceanic Mooring in Newport Harbor – Yearly Review***

The Harbor Commission will conduct the annual review of the vessel Cheyenne's mooring in Newport Harbor.

Mr. Miller introduced the aforementioned item and addressed previous review by the Commission and an agreement that the Cheyenne would remain but would pay the full 2012 mooring fees. The discussion at the

time was to return with the item to review the matter. He addressed the previous as well as the current location of the Cheyenne and recommendations.

Brief discussion followed regarding the new boundary lines for the F mooring area and the D mooring field.

Chris Welsh, Cheyenne pilot, addressed the number of days the vessel has been in the water and subsequent dives as well as mechanical issues resolved. He reported on upcoming goals including diving the Puerto Rican trench. He reported agreement with the current location of the vessel and stated that most likely they will be headed for Puerto Rico within the next five-to-six months. He addressed current goals and noted there will be a lot of diving in the future.

Chair West commented on the location of the mooring.

Discussion followed regarding reviewing the matter again prior to Mr. Welsh's team departure.

Mr. Welsh reported that he will keep in communication with staff and the Commission with updates.

Discussion followed regarding extending or shortening the mooring and charging mooring fees only while the vessel is in the harbor. It was noted that this is not a permanent mooring and that Mr. Welsh owns his own tackle. The item will be reviewed annually.

Mr. Miller noted that Mr. Welsh would like to have Newport Harbor as the vessel's home base. But that updates will be presented as necessary.

Interested parties were invited to address the Commission. There was no response and Chair West closed public comments for this item.

The report was received and filed.

## **7) SUBCOMMITTEE REPORTS**

It was reported that the Overhang Sub-committee met once, has not met recently, but will meet next month.

Commissioner Blank presented a brief report addressing the Commission objective regarding collaboration with Visit Newport Beach relative to making the City "boater-friendly". He reported that the Sub-Committee met with Gary Sherwin of Visit Newport Beach and reviewed the Commission's interest in a SWOT analysis and discussed opportunities for promoting the harbor as a great destination for visiting boaters. Commissioner Blank reported discussing specific strategies for increasing the number of visiting vessels, improving visitor experience and supporting businesses that serve visiting boaters. Discussion also occurred regarding distribution of the cruising guide, collaboration with area restaurants and other attractions and considering the destination vision of "welcome" and next steps to engage the Harbor Master and his staff to assess their role in the Newport experience. He announced an upcoming meeting with Harbor Master Tom Slayton, to initiate discussions.

Regarding improvements to public docks, Commissioner Blank reported ongoing efforts and the arrangement of a number of ride-alongs with the Harbor Patrol. He added that an update will be provided to the Commission in February.

Chair West thanked Commissioner Blank for initiating the ride-along opportunity with the Harbor Patrol.

Interested parties were invited to address the Commission.

John Corrough commented on the promotion of the harbor and sustaining the marine industry in the community. He felt there should be a mechanism for promoting the harbor other than the Chamber of Commerce.

It was noted that the Chamber will continue promoting marine industries but will minimize their focus to business development. Visit Newport is involved as well and is doing a great job.

Discussion followed regarding the willingness of Visit Newport to help with the City.

There being no others wishing to address the Commission, Chair West closed public comments for this item.

**8) QUESTIONS AND ANSWERS WITH COUNCIL LIAISON ON HARBOR RELATED ISSUES**

Councilmember Gardner reported that the Tidelands Management Committee will meet next Wednesday at 4:00 p.m. and addressed the issues to be discussed.

In addition, she announced that this Saturday at 11:30 a.m. at the Oasis, Council will hold its goal-setting meeting and noted that one of the issues to be discussed is whether Commissions should have Council liaisons.

**9) HARBOR RESOURCES UPDATE – Receive and File**

Mr. Miller presented a brief update on the City's dredging project and stated that the project should be completed by the end of the month.

Harbor Resources Supervisor Shannon Levin reported on the replacement of all five City-owned pump-outs. She reported that the project should be completed by the end of March.

Brief discussion followed regarding the location of the five pump-outs.

Mr. Miller reported that user fees will be discussed at the upcoming Tidelands Management Committee.

**10) PUBLIC COMMENTS ON SUBCOMMITTEE REPORTS OR HARBOR RESOURCES UPDATE**

Leddy Chang presented a brief update on the status of paddle boarding in the harbor and distributed copies of a draft document entitled, "Stand Up Paddle Boarding Instructional and Safety Techniques".

**11) COMMISSION ANNOUNCEMENTS OR MATTERS WHICH MEMBERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION OR REPORT (NON-DISCUSSION ITEM)**

Members of the Commission commended the Harbor Patrol and Visit Newport for their efforts during the Christmas Boat Parade.

Chair West referenced a meeting where discussion occurred regarding offshore docking and noted that he would like adding an item on the agenda for a presentation at the Commission's February meeting. He requested that Commissioner Avery take the lead on the item, since he will not be at the February meeting and reported that Mr. Duffy will make the presentation.

**12) DATE AND TIME FOR NEXT MEETING:**

Wednesday, February 13, 2013

**13) ADJOURNMENT**

There being no further business to come before the Harbor Commission, the meeting was adjourned at 8:05 p.m.



== CITY OF ==

# NEWPORT BEACH

## Harbor Commission Staff Report

Agenda Item No. 1  
March 13, 2013

**TO:** HARBOR COMMISSION

**FROM:** Public Works Department  
Chris Miller, Harbor Resources Manager  
949-644-3043, [cmiller@newportbeachca.gov](mailto:cmiller@newportbeachca.gov)

**TITLE:** Commercial Pier at 508 S. Bay Front – Request for a New Permit

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**ABSTRACT:**

The commercial pier at 508 S. Bay Front encroaches in front of the neighbor's property at 510 S. Bay Front. Per Newport Beach Municipal Code ("NBMC") 17.35.020(F), a new permit approved by the Harbor Commission shall be required upon a change of ownership of the permittee's property. The property at 508 S. Bay Front is currently in escrow, and the Buyer is requesting a new permit.

**RECOMMENDATION:**

1. The Harbor Commission may approve a new permit for 508 S. Bay Front for the dock system in its current configuration, or;
2. The Harbor Commission may deny the permit request for 508 S. Bay Front in its current configuration, and require the dock system to be confined within the water area defined by the property line extensions of 508 S. Bay Front only.

**FUNDING REQUIREMENTS:**

There is no fiscal impact related to this item.

**ENVIRONMENTAL REVIEW:**

Staff recommends the Harbor Commission find this action is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.



## **DISCUSSION**

1. The pier at 508 S. Bay Front (“Pier”) is in the name “Vivian M. Vallely Trust.”
2. The properties at 508 and 510 S. Bay Front are located on Balboa Island, Section 1, Block 9, Lots 5 and 6 respectively.
3. 508 S. Bay Front is zoned “Mixed Use Water Related.” Therefore, the Pier is considered a commercial pier.
4. Vallely purchased the commercially zoned property at 508 S. Bay Front in the mid 1930’s. A pier permit was issued by the War Department on April 27, 1936, per John Vallely.
5. In the mid 1930’s, 510 S. Bay Front was commercially zoned, per John Vallely.
6. In 1938, Vallely obtained a letter of approval from Santee, owner of 510 S. Bay Front, to “install floats and pilings directly in front of my property Lot 6, Block 9, Balboa Island.” A May 7, 1949 letter of substantiation is signed by Santee and notarized, per John Vallely.
7. On July 18, 1938, the City Council approved Vallely’s request to “install a float fronting on Lot 6, Block 9, Section 1, Balboa Island.” (Attachment C)
8. On December 27, 1966, the City Council approved a harbor permit application for 508 S. Bay Front after reviewing a Public Works memorandum regarding maintaining an existing float bayward of Lots 5 and 6. (Attachment D)
9. NBMC 17.35.020(F)
  - a. “Encroaching Piers and Floats. In areas where existing piers and floats encroach in front of abutting upland property owned by others, a new permit approved by the Harbor Commission shall be required upon:
    - i. Any change in type of existing use of the piers and floats;
    - ii. Any change in type of existing use of the abutting upland property owned by the permittee;
    - iii. Any change of existing ownership of the abutting upland property owned by the permittee or upon death of the permittee;
    - iv. Any destruction of the pier and float in which over sixty (60) percent of the replacement value of the pier and float has been destroyed.

Before the Harbor Commission acts on the new permit, the owner of the abutting upland property, in front of which the harbor facility encroaches, shall be notified in writing of the meeting in which the new permit will be considered.”

10. Vivian Vallely passed in 2012. Staff determined that the pier was in the Trust's name (not the person Vivian Vallely), so the requirement of a new, Harbor Commission approved permit was not required at the time of her passing. However, a change in ownership is currently in process, therefore the Harbor Commission must now act.

11. A letter dated March 5, 2013 was sent to 510 S. Bay Front notifying the owner of the Harbor Commission meeting. (Attachment E.)

12. NBMC 17.35.060(A) – Balboa Island – Noncommercial Piers

a. "No new noncommercial piers on Balboa Island shall be approved unless determined by the Harbor Resources Division and Harbor Commission to be in the public interest."

i. This means that 510 S. Bay Front may not build a pier.

13. Views are not protected in the City.

14. NBMC 17.35.020(B)(2)&(3) – Setbacks.

a. "All piers and slips for commercial properties may extend to, but not past, the prolongation of the property line."

b. "The prolongation of the property line bayward of the same bearing from the bulkhead shall generally be used in determining the allowable setbacks for piers and slips."

i. Commercial piers, such as at 508 S. Bay Front, are allowed to build their piers to the property lines, as opposed to residential piers which must maintain a 5' setback.

15. NBMC 17.35.020(A)(1)&(10) – Piers

a. "No permits will be granted to persons other than the owners or long-term lessee of the abutting upland properties."

i. This establishes the right for a pier at 508 S. Bay Front.

- b. "Permits may be granted for joint ownership piers at the prolongation of common lot lines. The permit for joint ownership piers shall provide that all parties shall have equal rights under the permit and shall be held jointly responsible for compliance with all rules, regulations, and conditions set forth in the permit."
  - i. Many piers on Balboa Island and elsewhere are shared by two or more properties if the pier extends across the joint property line. The Pier at 508 S. Bay Front is not shared with 510 S. Bay Front.

16. On February 25, 2013, the Buyer's Agent requested that they be placed on the March 13, 2013 Harbor Commission agenda. The Buyer is Mr. Terry Causey.

**NOTICING:**

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the Harbor Commission considers the item).

Submitted by:

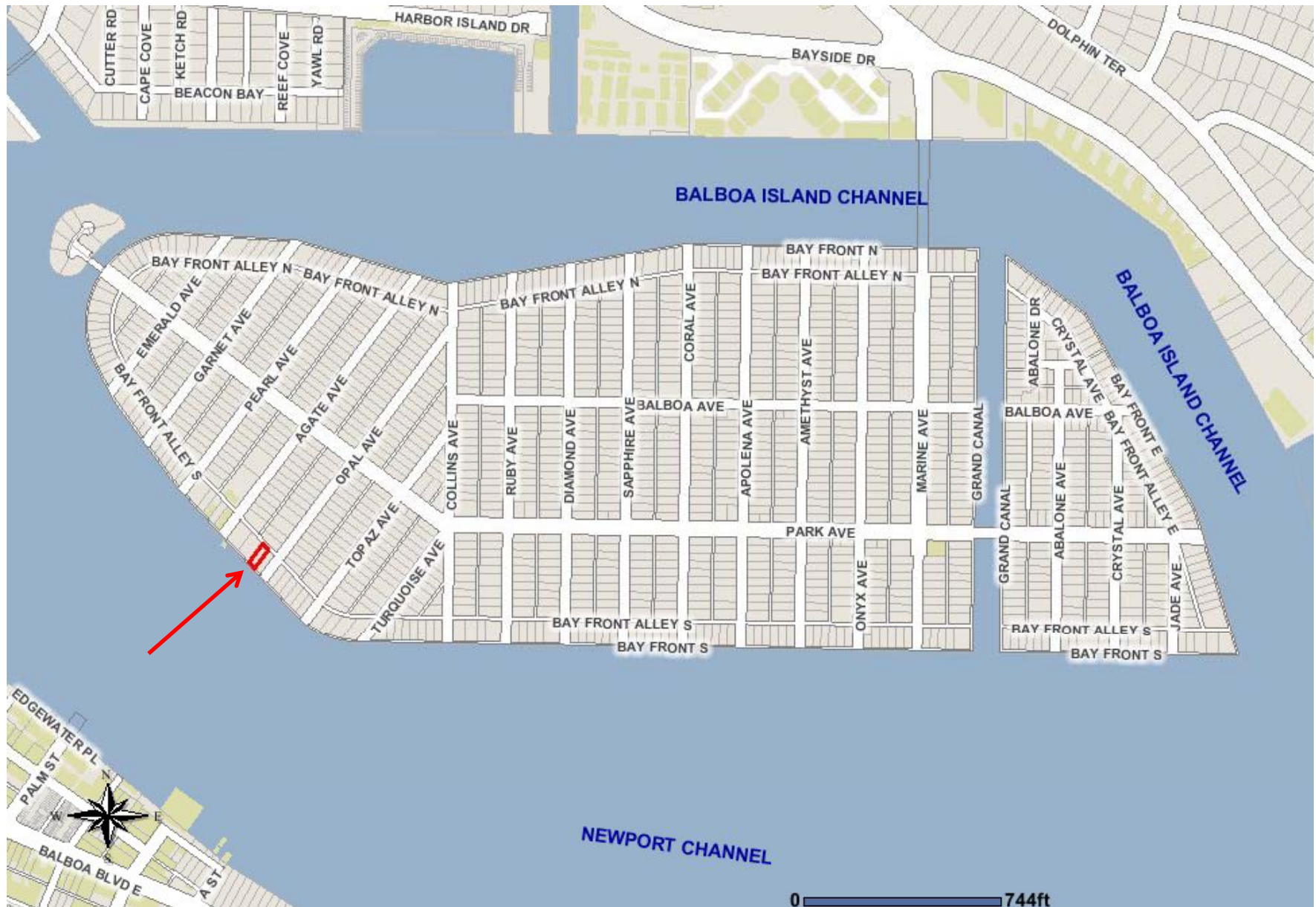


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Chris Miller

- Attachment:
- A. Vicinity Map
  - B. Aerial of 508 and 510 S. Bay Front
  - C. City Council Minutes from July 18, 1938
  - D. City Council Minutes from December 27, 1966
  - E. Harbor Commission Notification Letter to 510 S. Bay Front

# Vicinity Map







RESUB BALBOA ISLAND SEC. 1  
BLOCK 9, LOTS 5 & 6



Newport Beach, July 18, 1938.

The City Council of the City of Newport Beach met in regular adjourned session in the City Council Chambers at the City Hall in the City of Newport Beach at 7:30 P. M. on above date, with Mayor Williamson presiding.

The roll was called, the following Councilmen answering present; Gordon, Claire, Whitson, Brown, Williamson. Absent, Councilmen None. Roll

REPORTS OF SPECIAL COMMITTEES None.

REPORTS OF STANDING COMMITTEES None.

COMMUNICATIONS

The application of Harper's Radio Public Address System for permission to operate from a barge in the Bay a musical program each afternoon and evening up to 9 P. M. from July 29th to August 27th, was presented and discussed, and on motion of Councilman Whitson, seconded by Councilman Brown and carried, same was allowed subject to cancellation within five days.

Harper's musical program.

The application of Ivanhoe Pleas for a license for a retail bread route, was on motion of Councilman Claire, seconded by Councilman Whitson and carried, allowed subject to such restrictions as are embodied in Ordinance No. 471.

I. Pleas bakery route

The application of Arden Farms Inc., for licenses for four retail and one wholesale milk trucks, was on motion of Councilman Claire, seconded by Councilman Whitson and carried, allowed subject to the restrictions as are embodied in Ordinance No. 471.

Arden Farms milk trucks

The application of the Pomegranate Dairy for a retail dairy products truck, was on motion of Councilman Claire, seconded by Councilman Whitson and carried, allowed subject to the restrictions embodied in Ordinance No. 471.

Pomegranate Dairy Milk trucks

The application of the Davis Bread Co. for a license to operate a retail bread truck, was on motion of Councilman Claire, seconded by Councilman Whitson and carried, allowed subject to the restrictions embodied in Ordinance No. 471.

Davis Bread bakery truck

The application of Wm. A. and Ellen Donaldson for a license to conduct a lunch stand at Coast Highway, was on motion of Councilman Claire, seconded by Councilman Gordon and carried, allowed subject to the approval of the Health Officer.

W.A. Donaldson lunch

The application of the Allison Coffee Co. was on motion of Councilman Claire, seconded by Councilman Gordon and carried, allowed subject to the restrictions embodied in Ordinance No. 471.

Allison Coffee

The application, together with affidavit, of D. B. Swope for a license to peddle home grown products, was on motion of Councilman Claire, seconded by Councilman Gordon and carried, allowed.

D.B. Swope peddling

The applications of Arthur Schweizer and Frank E. Wierman for veteran's exempt licenses to peddle fruits and vegetables, were on motion of Councilman Claire, seconded by Councilman Gordon and carried, Laid on the Table.

Peddling

Frank Saunders, representing Frank Andrews, in connection with a hearing set for this date regarding the alleged non-compliance of the permit granted for the construction of a pier and float fronting on the latter's property. Mr. Saunders addressed the Council concerning the matter and after considerable discussion it was moved by Councilman Claire, seconded by Councilman Gordon and carried that the Committee appointed by the Mayor to study the pier situation also report on the one in question, meanwhile it was recommended that Mr. Andrews tie his boat up temporarily.

Frank Andrews pier

The letter from the Secretary of the Pacific Coast Association of Fire Chiefs requesting the Council to authorize the Fire Chief's attendance at the annual Conference in Salt Lake City in September, was on motion of Councilman Claire, seconded by Councilman Gordon and carried, ordered filed.

Fire Chief's conference

A Mr. Walker, representing Lester Rees a local ice distributor, addressed the Council protesting the City ordinance effecting that type of business. City Attorney Thompson called attention to similar ordinances in vogue elsewhere and particularly in Bakersfield. Much discussion was had concerning the matter but no action was taken.

Lester Rees protest

The letter of Florence Mead of Balboa Island protesting the dog ordinance requirements was presented and on motion of Councilman Gordon, seconded by Councilman Brown and carried, same was ordered filed.

F. Mead protest

The letter of Mrs. Sarah Sime of Corona del Mar regarding the oiling of First Avenue, was presented, and on motion of Councilman Claire, seconded by Councilman Brown, and carried, same was referred to the City Engineer.

Oiling 1st Avenue.

The request of A. S. Richardson for permission to park boat trailers during the Regatta in the area adjoining his boat anchorage at the east end of Balboa Island, was presented, and on motion of Councilman Claire, seconded by Councilman Whitson and carried, the City Clerk was instructed to notify the applicant that zoning restrictions would not permit same.

A.S. Richardson Boat trailers

The request of Water Superintendent Patterson for approval of certain water credits due to uncollectable bills and adjustments on charges in the sum of \$24.97, was on motion of Councilman Claire, seconded by Councilman Whitson and carried, allowed.

Approving water credits

The request of Ralph P. Maskey in connection with the improving of Lake Avenue to 30th St; the opening of Marcus Avenue to Newport Blvd; changing the present bridge from 36th Street to 38th Street; a more adequate lighting system, together with the dredging of the channels, was presented, and on motion of Councilman Claire, seconded by Councilman Whitson and carried, the City Engineer was instructed to prepare an estimate as to the cost of Marcus Avenue and present same to the Planning Commission.

Improvement West Newport

The letter from the President and Secretary of the Townsend Club, thanking the City for its cooperation in connection with the Townsend Fish Fry held on June 24th, was presented, and on motion of Councilman Claire, seconded by Councilman Gordon and carried, same was ordered filed.

Townsend Club thanks

The letter of Harry Welch, Secretary of the Chamber of Commerce, suggesting that the Ocean Front walk be divided in order that one side be allowed for bicycle riders, was presented, and on motion of Councilman Claire, seconded by Councilman Gordon and carried, same was referred to the Chief of Police and Police Committee.

H. Welch bicycles on sidewalk

The application of Mrs. Sarah Mallard for a permit to construct a pier and float fronting on Lot 15, Block 441, Canal Section, having been approved by the City Engineer, was on motion of Councilman Claire, seconded by Councilman Gordon and carried, allowed.

Sarah Mallard pier permit

AAF270



Frank Scott  
pier & float

The application of Frank Scott for permission to construct a pier and float fronting on a portion of Lot H, Tract 919, having been approved by the City Engineer, was on motion of Councilman Claire, seconded by Councilman Brown and carried, allowed.

#### UNFINISHED BUSINESS

D.B.Maurice  
mooring  
pilings

The application of D. B. Maurice for permission to set two mooring pilings in connection with an existing pier having been approved by the City Engineer, was on motion of Councilman Gordon, seconded by Councilman Claire and carried, allowed.

C.T.Long  
pier permit

The application of Carl T. Long for permission to construct a pier fronting on Lot 1, Block 1, Tract 742, having been approved by the City Engineer, was on motion of Councilman Claire, seconded by Councilman Gordon and carried, allowed.

Roland Vallely  
float

The request of Roland Vallely for permission to install a float fronting on Lot 6, Block 9, Section 1, Balboa Island, together with the approval of the owner of the property, was presented, and upon approval of the City Engineer, it was moved by Councilman Claire, seconded by Councilman Whitson and carried, that same be allowed.

E.J.Power  
protest

The letter of Edward J. Power of 112 Opal Ave., Balboa Island, protesting the granting of a permit to Roland Vallely for a float fronting on Lot 6, Block 9, Section 1, Balboa Island, was on motion of Councilman Brown, seconded by Councilman Whitson and carried, ordered filed.

Ruth Jordon  
barge & anchor  
piling.

The application of Ruth Jordon for permission to place a barge and anchor piling in front of an existing pier fronting on Lot 15, Block 5, Section 5, Balboa Island, having been withdrawn, was on motion of Councilman Claire, seconded by Councilman Gordon and carried, ordered filed.

H.E.Kendall  
barge & anchor  
piling.

The application of Henry E. Kendall for permission to construct a barge and two anchor piling fronting on Lot 5, Block 2, Section 2, Balboa Island, was on motion of Councilman Claire, seconded by Councilman Gordon and carried, referred to the Committee appointed to investigate the pier situation on Balboa Island.

May M.Blumer  
steps over  
seawall

The application of May M. Blumer for permission to construct a platform and steps over the seawall on the Grand Canal and fronting on Lot 20, Block 1, Section 5, Balboa Island, was on motion of Councilman Claire, seconded by Councilman Whitson and carried, allowed subject to the approval of the City Engineer and in accordance with plans for such construction to be adopted.

D.R.Furse  
steps over  
seawall

The application of Dudley R. Furse for permission to construct a platform and steps over the seawall on the Grand Canal and fronting on Lot 2, Tract 742, Balboa Island, was on motion of Councilman Gordon, seconded by Councilman Brown and carried, allowed subject to the approval of the City Engineer and in accordance with plans to be adopted for such construction.

J.A.Beek  
bond

Ordinance No. 474 came up for final passage and on motion of Councilman Claire, seconded by Councilman Whitson and carried, the reading of same was waived.

The bond submitted by J. A. Beek, the successful bidder for the ferry franchise, having been approved by the City Attorney, was on motion of Councilman Claire, seconded by Councilman Whitson and carried, accepted.

Ord. No.474

Ordinance No. 474, AN ORDINANCE OF THE CITY OF NEWPORT BEACH GRANTING TO J. A. BEEK, A FRANCHISE FOR CERTAIN PURPOSES WITHIN THE SAID CITY OF NEWPORT BEACH.

Franchise to  
J.A.Beek

WHEREAS, application was duly filed with the City Council of the City of Newport Beach by J. A. Beek, for a franchise to conduct and operate a ferry for the hauling of passengers, freight and automobiles between certain points in the City of Newport Beach; and

WHEREAS, notice of the sale of said franchise was duly and regularly published in the manner and for the time provided by law, all of which will more fully appear by the records and files in this matter; and

WHEREAS, at the time in said published notice specified, one J. A. Beek, was the sole, only and highest bidder for said franchise; and

WHEREAS, the said franchise for the price bid was duly struck off and awarded to J. A. Beek and within the time provided by law, the said J. A. Beek duly caused to be executed and filed with the Clerk of the City Council of the City of Newport Beach, the bond required by law, and by said notice, in the penal sum of \$1000.00, which bond has been and is approved.

NOW, THEREFORE, the City Council of the City of Newport Beach does ordain as follows:

#### SECTION 1.

There is hereby granted to J. A. Beek and to his assigns, for the period and term of twenty-five (25) years, from and after the date of the passage of this ordinance, a franchise to maintain, conduct and operate a ferry boat or boats for the transportation of passengers, express matter, vehicles and freight, from the Northerly end of Palm Street on the mainland, across portions of Newport Bay, to the southerly end of Agate Avenue and points on Balboa Island, all within the City of Newport Beach, Orange County, California.

#### Section 2.

The holder of this franchise at all times during the existence thereof, shall keep and maintain sufficient, safe and adequate landings for the operation of a ferry boat or boats, and shall at all times maintain and operate safe and adequate ferry boats, sufficient to provide all the reasonable and necessary transportation of persons, express matter, vehicles and freight to and from the mainland and Balboa Island in said city.

The holder of this franchise shall not adopt or enforce in the operation of the franchise any rate of charges or regulations which shall or does discriminate in favor of one patron over another patron using the ferry boat or boats.

## COUNCILMEN

## Minutes of REGULAR MEETING OF THE CITY COUNCIL

Place of Meeting: Council Chambers

## Index

*Doreen Marshall*  
Mayor Pro Tempore  
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Absent

[illegible]



## COUNCILMEN

Index      December 27, 1966

SHELTON  
FORGIT  
COOK  
GRUBER  
MARSHALL  
PARSONS  
ROGERS

CA-38

Gardener  
●  
Reclass.

CA-45

Harb  
Perm  
Vallely  
A-1484

CA-130

## Refund to Calif Bench Co lic fees

CA-63

- Page 164

Motion  
Ayes  
Absent



# CITY OF NEWPORT BEACH

## PUBLIC WORKS DEPARTMENT Harbor Resources

March 5, 2013

***Sent via regular First Class Mail and Registered Mail***

Law Offices of Christopher Barnette  
501 West Broadway, STE 800  
San Diego, CA 92101

RE: Notice of Harbor Commission Meeting – 508 S. Bay Front

Dear Mr. Barnette,

Pursuant to Newport Beach Municipal Code 17.35.020.F, this is a written notice informing you that the pier at 508 S. Bay Front will be discussed at the next Harbor Commission on:

Wednesday, March 13, 2013  
6:00 PM  
"Old" City Council Chambers  
3300 Newport Blvd.  
Newport Beach, CA 92663

As you know, the current pier at 508 S. Bay Front encroaches in front of the abutting upland property owned by your client at 510 S. Bay Front. Per the Code, a new permit shall be approved by the Harbor Commission upon a number of conditions, one of which is "any change of existing ownership of the abutting upland property owned by the permittee..." The permittee at 508 S. Bay Front is currently in the process of selling the property.

You are welcome to attend the Harbor Commission meeting to provide comments. The Harbor Commission agenda and staff report will be posted by Friday, March 8, 2013 here: <http://www.newportbeachca.gov/index.aspx?page=462>

Please feel free to contact me if you have any questions.

Thank you,

A handwritten signature in blue ink, appearing to read "Chris Miller".

Chris Miller  
Harbor Resources Manager  
(949) 644-3043



**CITY OF**

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# **NEWPORT BEACH**

## **Harbor Commission Staff Report**

Agenda Item No. 2  
March 13, 2013

**TO:** HARBOR COMMISSION

**FROM:** Public Works Department  
Chris Miller, Harbor Resources Manager  
949-644-3043, [cmiller@newportbeachca.gov](mailto:cmiller@newportbeachca.gov)

**TITLE:** Alternate Mooring Ideas for Newport Harbor

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**ABSTRACT:**

Marshall Duffield, owner of Duffy Electric Boat Company, will present conceptual ideas for alternate configurations for Newport Harbor's mooring fields.

**RECOMMENDATION:**

1. Receive and file.

**FUNDING REQUIREMENTS:**

There is no fiscal impact related to this item.

**ENVIRONMENTAL REVIEW:**

Staff recommends the Harbor Commission find this action is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

**NOTICING:**

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the Harbor Commission considers the item).

Submitted by:

Chris Miller



**CITY OF**

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# **NEWPORT BEACH**

## **Harbor Commission Staff Report**

Agenda Item No. 3  
March 13, 2013

**TO:** HARBOR COMMISSION

**FROM:** Public Works Department  
Chris Miller, Harbor Resources Manager  
949-644-3043, [cmiller@newportbeachca.gov](mailto:cmiller@newportbeachca.gov)

**TITLE:** Harbor Commission Purpose and Responsibilities – Revisions

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**ABSTRACT:**

In November 2012, the City Council approved the Tidelands Capital Plan which outlines harbor projects to be completed within the next five years. The Harbor Commission's Purpose and Responsibilities should be updated to reflect the added component of the Tidelands Capital Plan.

**RECOMMENDATION:**

1. Advise the Harbor Resources Manager to recommend the proposed revisions of the Harbor Commission's Purpose and Responsibilities to the City Council.

**FUNDING REQUIREMENTS:**

There is no fiscal impact related to this item.

**ENVIRONMENTAL REVIEW:**

Staff recommends the Harbor Commission find this action is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

**NOTICING:**

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the Harbor Commission considers the item).

Submitted by:

Chris Miller

Attachment: A. Revised Harbor Commission Purpose and Responsibilities

## **HARBOR COMMISSION**

### **AUTHORIZATION:**

Established by Ordinance 2001-25, adopted on January 8, 2002.

### **MEMBERSHIP:**

Seven (7) members appointed by the City Council pursuant to Section 702 of the City Charter. In no event will individual appointments to the Harbor Commission exceed two (2) consecutive full terms, exclusive of appointments to fill unexpired terms.

### **TERM:**

Each member shall serve a term of four (4) years and such terms shall be on a staggered basis, pursuant to Section 702 of the City Charter, with terms beginning in January.

### **PURPOSE & RESPONSIBILITIES:**

Newport Harbor supports numerous recreational and commercial activities, waterfront residential communities and scenic and biological resources. The purpose of the Harbor Commission is to provide the City of Newport Beach with an advisory body representing these diverse uses of Newport Harbor and its waterfront.

- A. Advise the City Council in all matters pertaining to the use, control, operation, promotion and regulation of all vessels and watercraft within ~~the~~ Newport Harbor.
- B. Approve, conditionally approve, or disapprove applications on all harbor permits where the City of Newport Beach Municipal Code assigns the authority for the decision to the Harbor Commission.
- C. Serve as an appellate and reviewing body for decisions of the City Manager on harbor permits, leases, and other harbor-related administrative matters where the City of Newport Beach Municipal Code assigns such authority to the Harbor Commission.

- D. Advise the City Council on proposed harbor-related improvements.
- E. Advise the Planning Commission and City Council on land use and property development applications referred to the Harbor Commission by the City Council, Planning Commission, or the City Manager.
- F. Make recommendations to the City Council for the adoption of regulations and programs necessary for the ongoing implementation of the goals, objectives, ~~and~~ policies of the Harbor and Bay Element of the General Plan, the Harbor Area Management Plan, and the Tidelands Capital Plan.
- G. Advise the City Council on the implementation of assigned parts of the Tidelands Capital Plan such as:
  - 1. Dredging priorities.
  - 2. In-bay beach sand replenishment priorities.
  - 3. Harbor amenities such as mooring support service areas and public docks.

**STAFF:**

City Manager or designee.



**CITY OF**

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# **NEWPORT BEACH**

## **Harbor Commission Staff Report**

Agenda Item No. 4  
March 13, 2013

**TO:** HARBOR COMMISSION

**FROM:** Public Works Department  
Chris Miller, Harbor Resources Manager  
949-644-3043, [cmiller@newportbeachca.gov](mailto:cmiller@newportbeachca.gov)

**TITLE:** Lower Castaways – A Discussion on the Future of this City Owned Property

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**ABSTRACT:**

The Lower Castaways, located on the corner of W. Coast Highway and Dover Drive, is the last City owned waterfront property in Newport Harbor. The Harbor Commission is initiating the discovery process which will look at the future of this property, and the various uses which could benefit the entire community, both from a landside and waterside perspective. The Harbor Commission will review the comments made at today's Study Session, and will request input from the public during this discovery process.

**RECOMMENDATION:**

1. Receive and file.

**FUNDING REQUIREMENTS:**

There is no fiscal impact related to this item.

**ENVIRONMENTAL REVIEW:**

Staff recommends the Harbor Commission find this action is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

**NOTICING:**

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the Harbor Commission considers the item).

Submitted by:

Chris Miller

Attachment: A. Vicinity Map



# Lower Castaways

